IN THE HIGH COURT OF JUDICATURE AT BOMBAY

Appellate Side

Appeal From Order No.32 of 2006
with
Civil Application No.28 of 2006

Mr Lalchand Hiralal Gupta ...Appellant
vs
The Mun Corpn of Gr Mumbai ..Respondents

Mr. Vinay Hegde for appellant
Mr Xavier for BMC.

CORAM: A.M KHANWILKAR J.

Dated l6.l.2006

P.C:

Mentioned. Not on board.

l. Heard the learned counsel for the parties.

2. This Appeal takes exception to the order passed by the City Civil Court, Bombay dated l0.l.2006 in L.C.Suit No.56 of 2006 rejecting prayer for ad-interim relief till consideration of the notice of motion for interim reliefs taken out in the said suit. The lower court has noted that the documents produced on record by the plaintiff amongst others the ration card, adverts to the suit structure standing on S.No l80. The suit notice issued by the Corporation also pertains to the same structure occupied by the plaintiff-appellant. The ration

card pertains to the year l987. The Commissioner has not adverted to this document in his order which is impugned in the suit.Indeed no census certificate/ record has been produced by the plaintiff but since the plaintiff has produced other documents on record from which it is possible to demonstrate that the structure was in existence since long and much prior to l995, the authorities were expected to deal with these documents before coming to the final conclusion. Suffice it to observe that, prima facie case has been made out by the plaintiff- appellant for grant of ad-interim relief. In the circumstances the impugned order is set aside. Instead, ad-interim order as prayed for in the notice of motion of stay of demolition of the suit structure is granted and to continue till the final disposal of the notice of motion. The notice of motion to be heard and decided by the trial court as expeditiously as possible. The appellant undertakes to complete the pleadings and abide by the directions to be passed by the trial court for disposal of the notice of motion. Appeal stands disposed of on the aforesaid terms. It is made clear that any observations made in this order may not be considered as expressing any opinion with regard to the merits of the notice of motion, which will have to be considered on its own merits

in accordance with law. Appeal disposed of in the above terms.

. In view of the disposal of the main appeal,no orders on civil application.